

ORDINANCE NO. 96-23

ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE 90-1, AS AMENDED BY ORDINANCE 95-42, THE PALM BEACH COUNTY ORDINANCE FOR EQUAL OPPORTUNITY TO HOUSING AND PLACES OF PUBLIC ACCOMMODATION; PROVIDING FOR DEFINITION OF HOUSING FOR OLDER PERSONS; PROVIDING FOR PROCESSING OF COMPLAINTS; PROVIDING FOR CONCILIATION; PROVIDING FOR ADMINISTRATIVE REMEDIES; PROVIDING FOR GOOD FAITH ATTEMPT AT COMPLIANCE DEFENSE RELATING TO FAMILIAL STATUS AND AGE; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the public policy of the United States of America to provide for fair housing and access to public accommodations throughout the United States and the policy of Palm Beach County, Florida, to also so provide; and

WHEREAS, discrimination in housing and in places of public accommodation deprives individuals of their basic right to associate, causes friction among groups in society, and adversely affects the public health, safety, and welfare; and

WHEREAS, the Board of County Commissioners enacted Ordinance No. 90-1, as amended by Ordinance 95-42, which provided for equal opportunity to housing and places of public accommodation; and

WHEREAS, it is necessary to further amend such ordinance in order to qualify for the designation of a "substantially equivalent" agency by the United States Department of Housing and Urban Development and to be consistent with the 1995 amendments to the Federal Fair Housing Act contained in the "Housing for Older Persons Act of 1995".

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Palm Beach County Ordinance, No. 90-1, as amended by Ordinance 95-

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1 42, be and hereby is amended as follows:

2 SECTION I. DEFINITION OF HOUSING FOR OLDER PERSONS

3 Section 2(18) of Ordinance No. 90-1, as amended by
4 Ordinance No. 95-42, is amended to read as follows:

5 "Housing for older persons" means housing:

6 a) Provided under any state or federal program that the
7 Office of Equal Opportunity or the Fair Housing Board
8 determines is specifically designed and operated to assist
9 elderly persons, as defined in the state and federal program;

10 b) Intended for and solely occupied by, persons 62
11 years of age or older.

12 c) Intended and operated for occupancy by at least one
13 person 55 years of age or older per unit in 80 percent of the
14 units, provided that the occupancy of such housing can be
15 verified in accordance with rules established by the U.S.
16 Department of Housing and Urban Development and provided that
17 the housing facility publishes and adheres to policies and
18 procedures that demonstrate the intent to provide housing for
19 older persons.

20 d. Housing shall not fail to be considered housing for
21 older persons if:

22 (I) A person who resides in such housing on or
23 after September 13, 1988, does not meet the age
24 requirements of this subsection provided that any new
25 occupant meets such age requirements; or

26 (ii) One or more units are unoccupied, provided that
27 any unoccupied units are reserved for occupancy by
28 persons who meet the age requirements of this subsection.

29 e. In determining whether housing meets the

1 requirements of housing for older persons, the County will
2 utilize current Federal regulations regarding criteria for
3 housing for older persons.

4 SECTION II. PROCESSING OF COMPLAINTS

5 Section 12 of Ordinance No. 90-1, as amended by Ordinance
6 No. 95-42 is amended to read as follows:

7 The Office of Equal Opportunity shall commence its
8 investigation under this Ordinance within 30 days of the receipt of
9 a sworn written complaint. Within 100 days of the filing of a
10 complaint as set forth in Section 10 the staff of the Fair Housing
11 Division of the Office of Equal Opportunity shall make such
12 investigation as the Director or the Board deems appropriate to
13 ascertain facts and issues. If the Fair Housing Division of the
14 Office of Equal Opportunity is unable to complete the investigation
15 within 100 days after the filing of the complaint, they shall
16 notify the complainant and the respondent in writing of the reasons
17 for not doing so. In conducting an investigation to ascertain
18 whether or not there has been a violation of this Ordinance, the
19 Director and/or the Director's designee shall have access at all
20 reasonable times to premises, records, documents, individuals, and
21 other evidence, or possible sources of evidence, and may examine,
22 record the testimony or statements of such persons as are
23 reasonably necessary for the furtherance of the investigation
24 providing that the Office of Equal Opportunity complies with the
25 provisions of the Federal and State constitutions relating to
26 unreasonable searches and seizures. The Director, Chairperson,
27 Vice-Chairperson or any other member of the Fair Housing Board may
28 issue subpoenas to compel access to, or the production of, such
29 materials, or the appearance of such persons, and may issue

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1 interrogatories to a respondent to the same extent and subject to
2 the same limitations as would apply if the subpoenas or
3 interrogatories were issued or served in aid of a civil action in
4 court. In the case of a refusal to obey a subpoena issued to any
5 person, or refusal to comply with any method of discovery
6 authorized in the Florida Rules of Civil Procedure the Board and/or
7 the Director shall request the County Attorney to make application
8 to the appropriate Court to order the witness to comply with a
9 request for discovery, or to appear before the Board and to produce
10 evidence, if so requested, or to give testimony concerning the
11 matter in question. Failure to obey the order may be punishable by
12 the Court as contempt. The Director and/or the Board may
13 administer oaths. The Office of Equal Opportunity shall endeavor to
14 achieve final administrative disposition of a complaint within one
15 year of its filing, unless it is impracticable to do so. If final
16 administrative disposition is impractical to achieve within one
17 year of the filing of the complaint, the parties shall be provided
18 notice which shall state the reasons why it is impractical to
19 achieve final disposition within one year.

20 SECTION III. CONCILIATION

21 Section 18(1) of Ordinance No. 90-1 is amended to read as
22 follows:

23 During the period beginning with the filing of the
24 complaint and ending with the final disposition of a complaint, the
25 Office of Equal Opportunity shall, to the extent feasible, engage
26 in conciliation with respect to such complaint. Where such
27 conciliation attempts are successful, the terms of the consent
28 agreement shall be reduced to writing and signed by the
29 complainant, the respondent and the Director. The original of the

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1 signed agreement shall be filed with the Director, and copies shall
2 be served upon the respondent, complainant and the Board. The
3 Board shall, at its next regularly scheduled meeting, approve or
4 disapprove the agreement.

5 SECTION IV. ENFORCEMENT

6 Section 19(4) of Ordinance No. 90-1, as amended by
7 Ordinance 95-42, is amended to read as follows:

8 If the Board of County Commissioners of Palm Beach County
9 concludes at any time following the filing of a complaint that
10 prompt judicial action is necessary to carry out the purposes of
11 this Ordinance, the Board of County Commissioners of Palm Beach
12 County shall direct the County Attorney to institute a civil action
13 for appropriate temporary or preliminary relief pending final
14 disposition of the complaint under this Ordinance. The
15 commencement of a civil action under this subsection shall not
16 affect the initiation or continuation of proceedings under this
17 Ordinance. The Board of County Commissioners of Palm Beach County
18 need not have petitioned for administrative hearing or exhausted
19 the administrative remedies prior to requesting the commencement of
20 a civil action.

21 SECTION V. ADMINISTRATIVE REMEDIES

22 Section 20(17) of Ordinance No. 90-1, as amended by
23 Ordinance No. 95-42, is amended to read as follows:

24 If the Fair Housing Board finds that a discriminatory
25 housing practice has occurred or is about to occur, it shall issue
26 an order prohibiting the practice and awarding affirmative relief
27 from the effects of the practice, including actual damages and
28 reasonable attorney's fees and costs, and other injunctive or
29 equitable relief. To vindicate the public interest, the Fair

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1 Housing Board, may assess a civil penalty against the respondent.
2 Funds recovered under this section shall be paid to the Board of
3 County Commissioner's general fund.

4 SECTION VI. GOOD FAITH ATTEMPT AT COMPLIANCE DEFENSE
5 RELATING TO FAMILIAL STATUS AND AGE

6 Section 27(8) is added and shall read as follows:

7 An individual who engages in conduct with a reasonable
8 good faith reliance on the existence of the exemption of this
9 ordinance relating to housing for older persons is not personally
10 liable for money damages for a violation of this ordinance. For
11 the purposes of this paragraph, a person engaged in the business or
12 residential real estate transactions is presumed to have such a
13 good faith reliance if that person has no actual knowledge that the
14 housing facility is not or will not be eligible for the housing for
15 older persons exemption and the housing facility gives such a
16 person a written certification stating the compliance of the
17 facility with the requirements for the housing for older persons.

18 SECTION VII. REPEAL OF LAWS IN CONFLICT

19 All local laws and ordinances applying to the
20 unincorporated area of Palm Beach County in conflict with any
21 provisions of this ordinance are hereby repealed.

22 SECTION VIII. SEVERABILITY

23 If any section, paragraph, sentence, clause, phrase or
24 word of this Ordinance is for any reason held by the Court to be
25 unconstitutional, inoperative or void, such holding shall not
26 affect the remainder of this Ordinance.

27 SECTION IX. INCLUSION IN THE CODE OF LAWS AND ORDINANCES


28 The provisions of this Ordinance shall become and be made
29 a part of the Code of Laws and Ordinances of Palm Beach County,

1 Florida. The sections of the Ordinance may be renumbered or
2 relettered to accomplish such, and the word "ordinance" may be
3 changed to "section," "article," or any other appropriate word.

4 **SECTION X. EFFECTIVE DATE**

5 The provisions of this Ordinance shall become effective
6 upon filing with the Department of State.

7 **APPROVED AND ADOPTED** by the Board of County Commissioners
8 of Palm Beach County, Florida, on the 20th day of August, 1996.

9
10 DOROTHY H. WILKEN, CLERK PALM BEACH COUNTY, FLORIDA, BY ITS
11 Board of County Commissioners BOARD OF COUNTY COMMISSIONERS
By: *Dorothy H. Wilken* DEPUTY CLERK
12  By: *[Signature]* AUG 20 1996
13 Chair

14 APPROVED AS TO FORM AND
15 LEGAL SUFFICIENCY

16 By: *[Signature]*
17 Asst. County Attorney

18 **EFFECTIVE DATE:** Filed with the Department of State on
19 the 28th day of August, 1996, at N/A .M.

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STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
on 8/20/96
DATED at West Palm Beach, FL on 9/4/96.
DOROTHY H. WILKEN, Clerk
By: *Phyllis A. House* D.C.

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FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM CODRS CODING FORM

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (904)-488-8427 or Suncom 278-8427.

COUNTY: (Palm Beach)	COUNTY ORDINANCE # (96-23)
	(e.g., 83-001)
PRIMARY KEYFIELD DESCRIPTOR: (Civil Rights/Human Relations)	
SECONDARY KEYFIELD DESCRIPTOR: ()
OTHER KEYFIELD DESCRIPTOR: ()
ORDINANCE DESCRIPTION: (Fair Housing)	(25 characters maximum including spaces)
ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)	
AMENDMENT # 1: (95-42);	AMENDMENT # 2: (90-1).
ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)	
REPEAL # 1: (); REPEAL # 3: (
REPEAL # 2: (); REPEAL # 4: (
(Others repealed: list all that apply):	

(FOR OFFICE USE ONLY):	COUNTY CODE NUMBER: ()
KEYFIELD 1 CODE: (KEYFIELD 2 CODE: (
KEYFIELD 3 CODE: (Rev. 8/2000

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